

[Sir K. Venkatarreddi Nayudu] [19th August 1925]

off on Saturday. It is now too late to make other arrangements because there are only four days intervening. I would therefore request the House to look into that aspect also. We can perhaps sit on Monday and if necessary on Tuesday also."

* Rao Bahadur C. V. S. NARASIMHA RAJU :—"Sir, the meeting of the Council was announced long ago to take place on the 18th onwards. I do not think any gentleman is right in anticipating that the work of the Council would be closed in four days. That is all that I can say."

* The hon. the PRESIDENT :—"I think, that, after one or two similar cases that we have had in the past, it is not right for me to adjourn for a day merely to enable one or other party to have a conference. But if the House as a whole agrees and particularly as it is a question of a Saturday, I should certainly adjourn for the Saturday. But seeing the very inchoate state of business now, I do not know if hon. Members would be particularly inconvenienced."

* Mr. A. RAMASWAMI MUDALIYAR :—"I have only to say this much. It is practically certain that the official business cannot be finished in a single day. If therefore, it cannot be finished on Saturday, it does not seem that hon. Members would be at any great disadvantage or that any serious inconvenience would be caused by our sitting on Monday and Tuesday without sitting on Saturday. If it is a question of our sitting on Saturday and finishing our business, that is a quite different matter. It is now practically certain that we cannot do that and I would therefore ask the House to consider whether we may not adjourn on Friday."

Mr. K. KOTI REDDI :—"From the point of view of the public as also from our own point of view it would cause much inconvenience. If we sit on Saturday and go on with the business as much as we can, we can expect to go home one day earlier. Also, why should we waste the tax-payer's money by having no sittings on Saturday?"

* The hon. the PRESIDENT :—"I have to take into consideration also the fact that hon. Members have had no notice that the House would continue for a long time. In that case I should have communicated that matter to hon. Members and probably they have come with the expectation that the sitting would be over on Saturday. Unless something happens between now and Saturday next I should be inclined to adjourn on Friday as usual till Saturday morning."

"The House will now adjourn for lunch and meet again at 2-30 p.m."

After Lunch (2-30 p.m.)

III.—ADJOURNMENT MOTION REGARDING MR. COURTENAY'S REPORT ON GOOTY PUNITIVE POLICE.

* The hon. the PRESIDENT :—"The House will now debate on the motion of Mr. A. Ramaswami Mudaliyar :

'That the business of the House be adjourned to discuss a definite matter of urgent public importance, namely, the question of expunging from the published records the remarks made against and the reflections cast on an hon. Member of this House in the report of Mr. Courtenay and the Government Order thereon.'

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[The President]

"Under Standing Order 23, the debate has to terminate automatically at 5 p.m. and thereafter no question can be put, and no speech during the debate shall exceed fifteen minutes in duration provided that it shall be within the discretion of the President to allow the mover and the Government Member answering him to exceed the said limit of time.

"The time limit will be strictly enforced in the case of hon. Members with the exception of those specified in the Standing Order."

* Mr. A. RAMASWAMI MUDALIYAR :—"Mr. President, I have invited the House this afternoon to discuss a matter of the utmost gravity in so far as it concerns the dignity of this House and the dignity of its members. I want to assure the House that it has not been without considerable deliberation, not without a great deal of anxiety either, that I have ventured to make this motion. I have been impressed, I confess it quite candidly, with the gravity of the problem which I have ventured to tackle. I should have been, indeed, pleased if some one much better qualified than myself, in experience, in public life and in the dedication of his services to the country, were to have come forward to make this motion. I should indeed have been much better satisfied if some one who had greater experience of parliamentary practice and procedure and of the dignity of this House were to have come forward to make this motion. I have ventured only because I was impelled by a compelling sense of duty that it was up to me to take up this question.

"I must also preface my remarks by another observation. I have made this motion without any sense of party feeling; I wish to assure members on all sides of the House that I have approached this question merely as a Member of the Legislative Council and merely because another fellow Member of the Legislative Council is involved in the matter. I hope I am not biassed by any personal considerations either of the one or the other, much less any consideration of party. In the few remarks that I shall make this afternoon I shall as far as possible try to eschew every consideration, every matter which would smack even in the remotest degree of party politics. And if I fail in any particular respect, I appeal to hon. Members to put it not to any intention on my part to override the limitations which I have put forward myself, but to the weakness on my advocacy.

"I have also to make another matter perfectly clear in this connexion. The punitive police at Gooty, the imposition of it, the modification of the order by Government, the appointment of the special officer, the circumstances under which that appointment was made, and the mass of evidence that was collected by the special officer, have all occurred at a time when I was absent. I had not the opportunity, except by reading the extracts here and there, of following this enquiry. I have not tried to identify myself with either one side of the case or another side of the case, and to a certain extent my absence from this country during the whole of that period has placed me in a specially favourable position, and I thought that was one of the considerations which would justify my venturing on the debate this afternoon.

"I have also to say that in making this motion, I shall strictly eschew all considerations relating to factions in Gooty, or to the necessity of the imposition of punitive police or otherwise. I have nothing to do with either the

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one party or the other party in Gooty or elsewhere. The merits or demerits of that question, that amount of blame that has to be attached to the one section or the other or both, the question how far punitive police was deserved by any particular set of villages or any class of people or any section or community, all these questions will have to be discussed on another occasion and in reference to another resolution. These have nothing to do with the motion I have brought before the House. And I want hon. Members on all sides of the House to remember that these are not questions which I am going to touch upon, and so I appeal to hon. Members to eschew these questions. We have nothing to do with the desirability of imposing punitive police; on this occasion, we have nothing to do with the factions that have been the unfortunate characteristic feature of Anantapur social and public life during the past some years. We are only concerned with certain aspersions that have been made against an individual member of the Legislative Council, and concerned with the circumstances under which those were made and the evidence or justification for those aspersions. I want to go one little step further. I am aware, and there is no use disguising the fact, that communal riots and communal dissensions have been the normal feature of the history of the period that has been exposed by the enquiry. I cannot disguise from myself the fact that particular communities have ranged themselves on this side of the question or that side of the question. I want to assure the Members of the House that I have nothing to do with those communal struggles.

"There is only one other matter to which I shall refer in my prefatory remarks. It has been brought out, it has been alleged and there have been several statements made by responsible gentlemen, that the authorities in the district have taken a partisan view of the matter, that they have joined one side or the other. I have nothing to do with that either; and I do not think any member in this House speaking on this motion is for a moment justified in dragging those considerations into the discussion. Those are questions with which this motion does not deal at all. You may have your own opinions on this matter. I know, and I am more than aware, that when questions are taken up in a very serious manner, there is bound to be excitement, there is bound to be sentiment, there is bound to be strong feeling. Keep your strong feelings for another occasion. We have nothing to do with them. The district authorities may be as bad as some represent, or they may be angels as some others represent. We have nothing to do with them. This does not come within the consideration of my question. The different parties that go up to make the enquiry do not come into our consideration. The long paragraphs which Mr. Courtenay has written about the factions and the identification of the gentlemen with one or other of them have nothing to do with it. Therefore I want to narrow the discussion strictly to the small limits which I indicated this morning to my learned friend there (the hon. the Law Member) and I want this House to consider only on that basis whether there is any justification for the views expressed in that portion. In saying this, I have to guard myself against one possible criticism. I have confined your attention to only one paragraph not because other portions of the report should not be read and should not be commented on or because I want to avoid any reference to those portions of the report because it is unfavourable to any

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possible contention that I am putting forward. The criticism that a paragraph removed from its context and read by itself may not express the whole truth is a criticism which is fair. But in this particular case, according to my reading of the report, the other paragraphs have no bearing on this question. I am dealing with the question that a member of the Legislative Council has been accused of using his public position for certain purposes. So far as I can gather from a perusal of the report, that accusation is made only in one paragraph. The evidence relating to that accusation is self-contained in that paragraph. The inferences drawn from the facts are also contained in the paragraph. It is only because Mr. Courtenay has been good enough to put in a handy and compendious form his reasons for the accusation made against Mr. Kesava Pillai and has therein drawn his inferences from those facts that I wish to confine myself to that paragraph. But, as I have said, I do not want to be accused of being guilty of having extracted a paragraph out of its context and twisted its proper and legitimate meaning. If any hon. Member of this House can say to me from reading Mr. Courtenay's report or any relevant portion thereof that some other portion of the report has a bearing on this particular extract, and may modify my deductions and inferences, I am willing to be corrected. So far as my knowledge of English goes, so far as a careful study of the report over and over again goes, I feel that this particular paragraph is the only paragraph relevant to the question and I shall, in fairness to myself, in fairness to Mr. Courtenay, in fairness to Government and in fairness to all Members of the House, confine myself to that particular paragraph.

"Now, Sir, I come to the paragraph, and I want to read it in full. Though I am aware that almost every Member of the House has read it, I beg the pardon of the House for taking up a little portion of their time in reading this. It is at page 8 of the Government Order that has been circulated by the kindness of the Government officials, to all Members of the House. About the middle of that page, he says :

'There is another aspect of his activities on which I must lay still greater stress. As I understand it, the gravamen of the charge against Chinurappa Reddi is that he has arrogated to himself powers and privileges which no private citizen can be permitted to enjoy in a civilized state. In a different manner, but with no disastrous results, Mr. Kesava Pillai has sought to undermine the machinery of Government ; and I do not think that it is any exaggeration to say that his attitude is reflected in the unlawful acts of those whose cause he espouses. Gentlemen who were unwilling to come forward publicly assured me in private that Mr. Kesava Pillai uses towards sub-magistrates and other subordinate officials language which is the cause of public scandal ; and I am convinced that he abuses his position to intimidate the officials with whom he comes in contact. He himself placed in my hands a letter written to him by an officer who did not occupy a subordinate position. As the letter was shown to me in confidence, I do not feel justified in either naming the officer or describing the circumstances in which the letter was written ; but these circumstances and the tenor of the letter itself entirely bear out the opinion which I have expressed. One matter deserves specific mention. On the 30th November 1923, Mr. Kesava Pillai addressed Mr. Ramachandra Ayyar (then District Superintendent of Police) making allegations against the character of Sub-Inspector Badr-ud-din. I know nothing about the sub-inspector beyond what appears from the evidence placed before me ; but that evidence suffices to show that, during the whole of 1923, he was almost entirely successful in maintaining the peace in difficult circumstances. Mr. Ramachandra Ayyar certainly took no action on Mr. Kesava Pillai's letter, as he was transferred on the day on which it was written. I do not know if Mr. Lewis was influenced thereby. It is, however, only too probable that Sub-Inspector Badr-ud-din himself attributed his transfer, which occurred little more than a month later, to subterranean influences, and that his successor was equally convinced of the fact. One of the first acts of the latter was to remove the constables posted by his predecessor at Chintalacheruvu ; and the almost immediate result of this act was the outbreak of lawlessness on the 10th

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February. Mr. Kesava Pillai was anxious to impress upon me that, when giving evidence in the Sessions Court, the new sub-inspector had an excuse to offer for his action. As though, forsooth, the man would say that he had been influenced by fear or favour! Mr. Hamilton has characterized the explanation as unsatisfactory.

“ Thus ends the paragraph. Now, Mr. President, I want this House to consider this paragraph with a judicial frame of mind. I have tried to read it apart from all question of prejudice or partisanship and I am
2-46 p.m. inviting this House now to go through that particular paragraph which undoubtedly contains charges of the gravest character against Mr. Kesava Pillai. On the evidence which Mr. Courtenay has placed before us in this paragraph I want this House to come to a decision whether the conclusions Mr. Courtenay has arrived at are justified or not.

“ The first charge that Mr. Courtenay makes is that Mr. Kesava Pillai ‘has sought to undermine the machinery of Government’. Now, Sir, His Excellency, in his speech to the Council yesterday, referred to Mr. Courtenay as an experienced judicial officer. I have no doubt that Mr. Courtenay has got all the equipment necessary to make a judicial officer and I have nothing to say against Mr. Courtenay’s judicial capacity. But it seems to me that in drawing up this report Mr. Courtenay did not act like an experienced judicial officer. It is most regrettable that Mr. Courtenay should have so lightheartedly made such grave charges on evidence which can only be characterised as absolutely flimsy. Take the first ground on which the special officer relied. He says he ‘was assured in private by gentlemen who were unwilling to come forward publicly that Mr. Kesava Pillai used towards sub-magistrates and other subordinate officials language which is the cause of public scandal.’ Now, I want this House to say whether any official is justified in making a charge of this grave character upon the evidence of gentlemen who desired to go behind the purdah, who will not face the public court—and Mr. Courtenay was holding his court in public—gentlemen who went to see Mr. Courtenay in private and whispered in his ears poisonous statements about others. I venture to think that no man with ordinary prudence and with that amount of care which the law expects an ordinary citizen to take in matters concerning his own affairs will fail to reject such a statement. He would have taken no notice of it. It is not even a rumour. It is not even an anonymous petition. It is worse than an anonymous petition. These gentlemen—I must take Mr. Courtenay’s description of them as gentlemen though I find it very hard to testify to that description—came to Mr. Courtenay in private when there was an opportunity for them to give their evidence in public, remember, Mr. President, that Mr. Courtenay was day after day holding his court in public and giving an opportunity to every one and sundry in that district to say what they all had to say regarding the subject matter of his inquiry, they told him these things and he believed them. But whatever his belief may be can we hesitate in our opinion that their statements ought never to have been utilized in a public trial or inquiry? I do not know whether Mr. Courtenay ever dreamt that his document would see the light of day. It is possible that Mr. Courtenay himself thought that his report would only reach his superior officers and would never see the light of day. I think that we would be doing an injustice to Mr. Courtenay if we

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were to assume that he made these statements fully conscious of the gravity of them and fully conscious also that one day or other they would see the light of day."

* The hon. Sir C. P. RAMASWAMI AYYAR :—" Mr. Courtenay, knew that his report was likely to be published."

* Mr. A. RAMASWAMI MUDALIYAR :—" I am sorry, Sir, that the hon. the Law Member has taken away from me that opportunity for assuming fairness on the part of Mr. Courtenay which I was only too anxious to assume. I want to be as fair to Mr. Courtenay as I can possibly be and I am going to be as fair to the hon. the Law Member as I can though he may find it difficult to accept the statement.

"I come now to the next point, where there is a specific instance given by Mr. Courtenay as the reason why he has come to this particular conclusion—" He himself ' says Mr. Courtenay ' placed in my hands a letter written by an officer who did not occupy a subordinate position ' and mark these words, Mr. President ' As the letter was shown to me in confidence, I do not feel justified in either naming the officer or describing the circumstances in which the letter was written ; but these circumstances and the tenor of the letter itself entirely bear out the opinion which I have expressed '.

"In this particular case, Mr. President, I cannot but say that Mr. Courtenay has been grossly unfair to himself, to his own sense of decency, to his own sense of etiquette. I cannot but say that Mr. Courtenay has done violence to every canon of decency which prevails among gentlemen. Mr. Courtenay says that a letter was shown to him in confidence and that therefore its terms should not be published. But Mr. Courtenay does more harm than anything else by publishing his conclusions based on that letter. I ask, is that the fairness to be expected from a gentleman of Courtenay's position ? If he had published the letter itself, the public would have been in a position to draw their own inferences. But the letter is private. It was shown to him in confidence. Mr. Kesava Pillai has not authorized Mr. Courtenay to publish it. Therefore, and rightly, Mr. Courtenay does not publish that letter, but he says that he would publish the inferences which he draws from it. Surely, Mr. President, injustice or impropriety could not go further. I cannot but say that Mr. Courtenay did not pay that adequate attention to the etiquettes that are observed by gentlemen and the decency that must be observed by gentlemen when he referred to that letter. I can only say that Mr. Courtenay has written this without a proper examination of the subject; otherwise I cannot believe that a gentleman of Mr. Courtenay's position, who ordinarily is meticulously careful of these questions, would have written such a report for published inferences drawn from a private letter shown in confidence. In fairness to the gentleman against whom these accusations are made, he would have done well to publish that letter itself. That would have been less harmful than this comment which he has made.

"Then again, Mr. President, the third and final factor—a factor which according to Mr. Courtenay forced him to come to the conclusion he has arrived at, is given in the next pertinent sentence. Mr. Kesava Pillai represented to the District Superintendent of Police that a certain Sub-Inspector of Police behaved improperly and probably suggested that he should

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be transferred. Now, Sir, I want to ask the hon. the Law Member whether he relies on this instance for the charges that Mr. Courtenay has made against Mr. Kesava Pillai. I want every Member of this House to follow me on this particular point, because most of us are guilty of the very offence which is supposed to have been committed by Mr. Kesava Pillai. I say frankly, let us put our hands on our hearts and say how many of us have not done that very act which Mr. Kesava Pillai is alleged to have done and done it with the consciousness that we are doing the most proper thing. If I am to discharge my duty, if there is an official in my district against whom overwhelming evidence comes to me from men of the most respectable class, men whose evidence I cannot but trust and if I were to write to the District Collector, as a Member of the Legislative Council, that such and such charges have been made by disinterested and respectable gentlemen, according to my opinion, against such and such an official and invite the Collector to look into the matter or to examine the question, does the hon. the Law Member say that he will be justified in issuing a pompous Government Order on the next day asking the public to note my conduct and telling me that he expects better conduct from me? That is an important issue which we have to face on this question. What has Mr. Kesava Pillai done? He wrote to the District Superintendent of Police, admittedly and avowedly the proper man to whom such a complaint should be made, that a Sub-Inspector of Police has been guilty of such and such conduct, that that Sub-Inspector of Police has not behaved himself properly and that he should be transferred. Do you think that is undermining the authority of the district officers or the subordinate officers? How many of us are forced to do this thing merely because we have taken this unenviable position of being public men. It is not always pleasant to make charges against a subordinate officer to a superior officer. In the first place, we stand to lose something of our self-respect; because the superior officers may put our representation in the waste-paper basket. In the second place, it is easily known in the district that a particular public man has complained against a subordinate official to a superior officer and it is more than likely that the whole of the subordinate staff in that district would combine together to annoy that public man. Therefore, when a public man makes a complaint against a subordinate officer he does not make it in a light-hearted manner. It is not to wreak vengeance that he makes the complaint. Does the hon. the Law Member say that he expects the public to take note of that conduct? Sir, these are the charges made against Mr. Kesava Pillai by Mr. Courtenay. We cannot travel beyond these. We cannot go beyond the ambit. Mr. Courtenay has circumscribed himself to certain limits. We cannot go beyond that in our attempt to impartially judge the propriety of the charges brought against a Member of the Legislative Council.

“ I do not want to labour the point that all the charges are made against him in his capacity as Member of the Legislative Council. I say
3 p.m. that no hon. Member's reputation is safe if this sort of reflection is going to be cast on this sort of evidence.

“ I want every Member of this House to look at this matter from this aspect. So far as the official Members are concerned, I do not appeal to them to support my motion; I make no appeals. But I think I would not be

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Mr. J. A. SALDANHA :—“ Will the Government be pleased to state why only one village panchayat in the South Kanara district has been entrusted with the work of looking after forests ? ”

Education.

Educational grant to schools in Ramnad district.

*48 Q.—Mr. A. CHIDAMBARA NADAR : Will the hon. the Minister for Education be pleased to state—

(a) whether it is a fact that the Provincial grant for education for schools in the Ramnad district has been reduced this year ; and

(b) if so, whether there has been proportionate distribution of grants to schools in Ramnad district ?

A.—(a) The provision made in the budget estimate for 1925-26 for the payment of teaching grants to aided elementary schools has not yet been distributed among the several District Educational Councils. The amount placed at the disposal of the District Educational Council, Ramnad, for the payment of teaching grants in the year 1924-25 was Rs. 1,34,268 as against Rs. 1,18,082 in 1923-24.

(b) Does not arise.

Fostering of new University centres.

*49 Q.—Mr. J. A. SALDANHA : Will the hon. the Minister for Education be pleased to state—

(a) by what means under the operation of the Madras University Act new University centres are fostered ;

(b) what special grant have Government sanctioned to the colleges at Trichinopoly and Mangalore with a view to foster an embryo university life in them ;

(c) whether there is any town in the Andhra country with more colleges and with more scholars in the college department than there are at Trichinopoly or Mangalore ;

(d) if the answer to the last question is in the negative, what justification there is for the Andhra country to have a separate University in preference to Trichinopoly or Mangalore ; and

(e) what form the Andhra University will take—(i) whether it will be on the model of the present Madras University Act, or (ii) on the model of the recent University Act superseded by the present Act ?

A.—(a) The attention of the hon. Member is invited to sections 27 (1) (f) and 53 of the Madras University Act (1923) and the Preamble to the Act.

(b) The colleges referred to are given the usual grants with reference to the provisions of the Grant-in-Aid Code.

(c) The attention of the hon. Member is invited to the Subsidiary table No. 1 (a) appended to Volume II of the Report on Public Instruction for 1923-24.

(d) & (e) The information may be gathered from the Andhra University Bill and the Statement of Objects and Reasons which will be published shortly.

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Mr. J. A. SALDANHA :—" May I know what special grants the Government have sanctioned to the colleges at Trichinopoly and Mangalore with a view to foster an embryo university life in them? "

The hon. Rao Bahadur Sir A. P. PATRO :—" Grants are given according to the Grant-in-Aid Code. If there are any special grants applied for they will be considered in the light of the provisions of the Grant-in-Aid Code."

Mr. J. A. SALDANHA :—" Cannot the Grant-in-Aid Code be amended so as to foster university life? "

The hon. Rao Bahadur Sir A. P. PATRO :—" The attention of the hon. Member is drawn to the answer to clause (a) of this question."

Mr. J. A. SALDANHA :—" Will the Government be pleased to see that the objects mentioned in the Code are carried out in practice? "

Revision of the Madras Educational Rules.

* 50 Q.—Mr. R. VEERIAN : With reference to answer to clause (d) of question No. 483, dated 18th March 1925, will the hon. the Minister for Education be pleased to state whether there is any proposal now before the Government to revise the Madras Educational Rules so as to make more liberal concessions to the members of the depressed classes in the secondary schools?

A.—The attention of the hon. Member is invited to G.Os. No. 707, Law (Education), dated 5th May 1925, and No. 855, Law (Education), dated 19th May 1925, published at pages 194 and 247-248 of Part I-B of the *Fort St. George Gazette*, dated 12th May 1925 and 23rd June 1925, respectively.

Registration.

Promotions and punishments in the Registration Department.

* 51 Q.—Mr. S. SATYAMURTI : Will the hon. the Minister for Education be pleased to state—

(a) the number of Sub-Registrars in the higher and lower grades, including probationers, who have been compelled to resign, dismissed, suspended or fined and whose increments have been stopped, during the years 1922 to 1924;

(b) the number of appeals preferred to Government for mitigation of punishment and the number of cases, in which the punishments were reduced or cancelled;

(c) how many Sub-Registrars of the lower grade have been promoted to the upper grade as a special case, between 1922 and 1924;

(d) whether it is a fact that Mr. Venkata Rao and Sriman Charam Das Baishnab of the Ganjam district were promoted to the upper grade in preference to seniors;

(e) if so, how many seniors have been overlooked and whether such promotions were made on the recommendation of the head of the department, or at the will and pleasure of the hon. the Minister;

(f) whether the claims of minorities and backward communities were considered in these promotions; and

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House, and who has been condemned most unfairly by the report of an officer and the Government Order passed thereon."

Rai Bahadur Sir K. VENKATAREDDI NAYUDU :—" I second the motion "

* Rao Bahadur T. A. RAMALINGA CHETTIYAR :—" Sir, We are now engaged on a most delicate and most important matter concerning the dignity of the House. Government themselves in the Government Order passed in this matter observe 'The Government trust that public opinion will express itself in an unequivocal manner against such a state of things'. I believe, Sir, that that trust expressed by the Government is one which requires the response of everybody. At the same time before we express ourselves in the manner Government want us to do, we ought to be sure of the grounds on which we have to proceed in this matter. There has been an enquiry, not a judicial enquiry by any means, but an administrative enquiry with regard to certain matters in a district. Evidence has been taken with reference to this matter. One of the witnesses therein happens to be an hon. Member of this House, and a very respected Member of this House. He is the Deputy President of the House and as such occupies a very high place in this House. Such is the position; no doubt, we won't be quite correct in saying that the remarks made by Mr. Courtenay in his report are altogether irrelevant or unjustified. We have not got sufficient materials to go upon. In judicial enquiries witnesses come before a court and remarks are made by the judges after all the available evidence is placed before the judge. Here there was no judicial enquiry and all the evidence recorded has been more or less in the shape of statements not subject to cross-examination and the person against whom reflections are cast did not himself know that he was himself practically on trial. This seems to have been the position in which he has been placed in that enquiry.

" I say, Sir, that from the report itself we can find that no opportunity was given to cross-examine the parties that appeared before
3-15 p.m. Mr. Courtenay and gave their evidence. I do not make this as a complaint with reference to this enquiry. This was merely an administrative enquiry and Mr. Courtenay was not wrong in not allowing cross-examination. But the point is when he made a series of charges against the conduct of a person of the status and dignity of Mr. Kesava Pillai, the Deputy President of this House, I do submit that whatever might have been the inferences of Government and whatever Mr. Courtenay or anybody else might have thought, it is the duty of this House to satisfy itself as regards the materials which are available and which enabled Mr. Courtenay to arrive at the decision which he has arrived at in that enquiry. I have to submit to the House that it is necessary to go into details to find out the materials which enabled Mr. Courtenay and the Government to cast all sorts of imputations against Mr. Kesava Pillai, the Deputy President of this House. The House will not be justified in taking either the report of Mr. Courtenay or that of the Government as the basis for any inference to be drawn. It will be the necessary duty of this House before it comes to any conclusion to see that it satisfies itself by appointing a committee to go into the whole question and into any matter which may arise before them in the course of the enquiry and then arrive at a satisfactory conclusion, regarding the conduct of Mr. Kesava Pillai, and also the remarks which have been passed by

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Mr. Courtenay against him. That seems to me to be the duty of the House. This is a matter concerning one of the prominent Members of this House and I think it is absolutely the duty of this House to go into the whole question. It is in that view I beg to move for your consideration and for the consideration of this House an amendment to the motion which has been moved by my hon. Friend Mr. Ramaswami Mudaliyar. The amendment to the motion runs in the following terms.

'That the business of the House be adjourned to discuss a matter of urgent public importance, namely, to recommend to the Government the appointment of the following Committee of the Council who will go into the report and the evidence recorded already and take further evidence if they so desire and advise on the question of expunging from the published records the remarks made and the reflections cast on an hon. Member of this House in the report of Mr. Courtenay and the Government Order thereon:—

- (1) Diwan Bahadur M. Krishnan Nayar.
- 2 Rao Bahadur C. V. S. Narasimha Raju.
- (3) Mr. P. C. Venkatapati Raju.
- (4) Khan Bahadur Haji Abdulla Haji Qasim Sahib.
- (5) Mr. M. Ratnaswami.
- (6) Sir James Smijse, Kt.
- (7) Mr. A. Ramaswami Mudaliyar.
- (8) Rao Bahadur T. A. Ramalinga Chettiyar."

* The hon. the PRESIDENT:—"I will allow it to be seconded before I invite any remarks on the advisability of the amendment."

Mr. C. RAMALINGA REDDI:—"I am ready."

Sriman SANIBHUSHAN RAO Mahasaya:—"I rise to a point of order. I wish to know whether any amendment to a motion like this can be brought in at this stage."

* The hon. the PRESIDENT:—"I wish to know, before the propriety of allowing this amendment is discussed, whether the mover of the motion is prepared to treat this amendment of the motion as amended exactly on the footing of a resolution, as required by rule 12 (v) of the Madras Legislative Council Rules, namely, as a recommendation to the Government."

* Rao Bahadur T. A. RAMALINGA CHETTIYAR:—"It ought to be capable of being turned into a resolution. That is what the Standing Order wants."

* The hon. the PRESIDENT:—"That is, the motion as well as the amendment, if the mover accepts it as part of his motion or if the House passes it as an amendment, will be a recommendation to the Government."

* Rao Bahadur T. A. RAMALINGA CHETTIYAR:—"All that the rule says is that it ought to be capable of being turned into a recommendation. It does not say that it ought to be a recommendation. There are two points of view from which it can be looked at. The one is that the House can recommend to the Government to appoint a committee. The other is that the House has got the inherent power of appointing a committee of its own to go into any matter and advise it."

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* The hon. the ADVOCATE-GENERAL:—"First of all I should like to know what form the resolution will take if one were framed under rule 12 which would support this motion for adjournment. I should also like to know from my hon. Friend from Coimbatore how a resolution framed under rule 12 would conform to the subject matter of an adjournment motion under rule 11."

* Rao Bahadar T. A. RAMALINGA CHETTIYAR:—"My hon. Friend Mr. A. Ramaswami Mudaliyar will be able to frame a resolution for his adjournment motion."

* Mr. T. R. VENKATARAMA SASTRIYAR:—"I did not ask for the wording of the resolution which Mr. Ramaswami Mudaliyar would adopt. I am aware that the resolution which my hon. Friend from Coimbatore proposes to place before the House is one which recommends to the Government the appointment of a committee. I am not thinking that that proposition is not supportable. What I was thinking was how a resolution framed under rule 12 would support a motion for adjournment made under rule 11. I took it that it would in this form, viz., a recommendation to the Government that certain passages be expunged from the public records and that it would be merely a recommendation to that effect. If the suggestion made by the hon. Member from Coimbatore, viz., that a committee should be appointed by this House for the purpose of going into this matter on which further light is desired by this House before it pronounces its decision upon this adjournment motion, were accepted, it strikes me that this House proposes to make an enquiry and wishes to arrive at its own conclusion and then declare that certain passages *should* be expunged from the published reports of the Government. If that is what is intended by this amendment, it is not permissible. If it is merely for the purpose of making a recommendation to the Government that certain passages should be expunged from the published records, then I think it would be permissible. If the ultimate object is that after a certain order or direction of this House certain passages should be expunged from the published records, I think it would not be permissible. If the enquiry is only for the purpose of making up its mind and finally making a recommendation to the Government, I think it would be permissible."

* The hon. the PRESIDENT:—"I am much obliged to the hon. the Advocate-General. I only wanted that he should emphasize this point, viz., that an amendment to the adjournment motion should not make a fundamental change in the character of the motion itself, but only that it should be a recommendation to the Government if carried as much as an ordinary resolution. Now that the mover of the amendment has made it quite clear, I ask the mover of the motion whether he is willing to incorporate this amendment into his motion or whether it should be discussed on its own merits and then tacked on to his motion. I do not think there is any point of order in the question raised by the hon. Member from Ganjam."

* Mr. A. RAMASWAMI MUDALIYAR:—"I have no objection to the amendment in substance being incorporated in my motion."

* The hon. the PRESIDENT:—"I would not have taken so much time over the admissibility of the amendment but for the fact that on a previous occasion one section of the House was dissatisfied with the admission of an

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amendment to an adjournment motion under discussion. Now that the House has agreed that this amendment can be incorporated in the main motion and discussed, there ought to be very little hesitation in admitting it."

* Mr. T. R. VENKATARAMA SASTRIYAR:—"Sir, whatever difficulty there might have been if the mover of the proposition refused to accept the amendment, now that he accepts it, it might be incorporated as part of the proposition and speaking for myself, I see no objection in incorporating the amendment."

* The hon. the PRESIDENT:—"I think that the hon. Mover accepts the amendment."

Sriisan SASIBHUSHAN RAO Mahasaya: "Sir, I have one statement to make in this connexion. First of all, before you give your ruling allowing the amendment, I want to place one matter for your consideration. I should say that the fundamental character of an adjournment motion is lost sight of when we allow an amendment to be made. In the first instance, leave is taken to move an adjournment motion; certain restrictions are placed and they are classified into five heads in rule 12 of the Legislative Council Rules. You are then asked to exercise your discretion to allow the motion or not. The motion is then submitted to His Excellency the Governor for final approval, and if he allows the motion to be discussed, we are at liberty to discuss it. An amendment of this character though you have the discretion to allow it, would deprive His Excellency of the opportunity of exercising his discretion in respect of the motion. That is one objection to the moving of an amendment at this stage. But, Sir, I remember that on a former occasion you had allowed an amendment to be moved and that was in connexion with the Salt question, I believe, when the mover, Sir James Simpson, wanted to amend his motion. I want you to consider whether this amendment stands on the same level, and I request you to give a considered ruling because this is the second occasion when an amendment on an adjournment motion is allowed. I do not think that there is any other Assembly in India where amendments are allowed to an adjournment motion."

* The hon. the PRESIDENT:—"On the question whether the present amendment is on the same footing as the amendment on the last occasion, I have already remarked that the amendment on the last occasion did not commend itself to a considerable portion of the House. And that, I believe, was the gravamen of the dissatisfaction. On the present occasion, so far as I can see, the House is generally prepared to accept the amendment and discuss it as part of the motion. As regards the opportunity for His Excellency to consider the motion in the present form, hon. Members of the House are aware as well as I am that His Excellency has his responsible advisers in the House and if there was objection, I should certainly expect them to raise it. I should be prepared to listen to them. As they have not raised any such objection."

* The hon. Sir C. P. RAMASWAMI AYYAR:—"Sir, I have not spoken till now and I do not propose to speak until I get all information derivable in the matter. It must not be taken that I am silent in the sense that I accept the amendment."

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* The hon. the PRESIDENT :—“ No, no. I mean that no objection was raised on the admissibility of the amendment. I shall certainly take care to look into the question before a future occasion arises but inasmuch as this particular point of order cannot afford to wait I have to rule that the amendment is admissible. I think that the mover of the motion is prepared to have it discussed as part of his motion and in the form in which it had been proposed and seconded. I shall invite the House to proceed with the discussion of the motion in the amended form, viz., that the business of the House be adjourned to discuss a matter of urgent public importance, namely, to recommend to the Government the appointment of the following committee of the Council who will go into the report and evidence recorded already and take further evidence if they so desire and advise on the question of expunging from the published records the remarks made and the reflections cast on an hon. Member of this House in the report of Mr. Courtney and the Government Order thereon.

“ Then follow the names of the members. The names are :—

Diwan Bahadur M. Krishnar Nayar,
Rao Bahadur C. V. S. Narasimha Raju,
Mr. P. C. Venkatapatnam,
Haji Abdullah Sahib,
Mr. M. Ratnaswami,
Sir James Simpson, Kt.,
Mr. A. Ramaswami Murthy, and
Rao Bahadur T. A. Ramalinga Chettyar.

* Rao Bahadur T. A. RAMALINGA CHETTYAR :—“ I propose the addition of Rao Bahadur A. S. Krishnarao Patil.”

Rao Bahadur Sir K. VENKATARAMA NAIDU :—“ I propose Mr. B. Muniswami Naidu.”

Both the names were added to the list.

* The hon. the PRESIDENT :—“ I think I should now call upon the seconder of the amendment and of the mover to speak if they want.”

Mr. C. RAMALINGA REDDI :—“ As I have already seconded the amendment, Sir, I thought I had exhausted my right of speech.”

* Rao Bahadur T. A. RAMALINGA CHETTYAR :—“ I thought it would be better to avoid speeches in the matter, if it could be done.”

* The hon. Sir C. P. RAMASWAMI AYYAR :—“ Mr. President, Sir, I take it that the only motion which I am called upon to answer at the present moment is the one which has taken shape finally as you have just read out. I take it that that is the only proposition before the House. I do not think it would be apt, in view of the time that this debate has taken, that I should say anything on the subject other than what I feel in my hon. Friend, the Member from Chingleput. But I will content myself with one observation and that is this, that the manner in which this amendment has been moved and accepted in this House on this occasion illustrates as nothing else can so fully demonstrate that the matter ought rightly to have been brought in as an amendment to the resolution on the Gooty police force already on the tapis and not as an adjournment motion and it proves incontestably that it is neither so urgent nor of such definite and crucial

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character as to demand a motion for adjournment. I take it however that the House is generally agreed that the manner in which the question is brought up was apparently with the object of focussing the attention of this House at an early stage of its deliberations on this matter and not so much because anybody was particularly anxious or rather particularly convinced that either in the original form or in the amended form it was a matter which would come within the rules. That, I submit, is a legitimate remark that I might now make.

"The other remark that I desire to make, Sir, with your permission, is this. This resolution revives and intensifies the difficulties that were felt by the Government in the appointment of Mr. Courtenay as a Special Officer. Originally it will be remembered that the Government after having perused the reports of the local officers merely indicated that they agreed with them as to the urgency of the situation in the localities concerned and thereupon passed orders imposing what is called a special police, police as contemplated in section 15 of the Act of 1861 in that locality. On that there came a demand, a fairly widespread demand for an enquiry. At that stage it fell to the lot of the Government to investigate the possibilities of such an enquiry. They then came to the conclusion and were fortified by the advice of their legal advisers that no enquiry in the sense of a judicial enquiry was permissible under the law. Under the law no evidence could be taken on oath except in the case of an enquiry against a Government servant. And under the special laws governing the matter, the only manner in which evidence can be taken on oath with the safeguards of cross-examination that are accepted in the law courts would be to get a commission appointed by His Excellency the Viceroy with reference to the provision of the Oaths Act. And that was why Mr. Courtenay, because the law would not allow any judicial enquiry in the strict sense of the term, was selected, because he was a man who had been accustomed to the sifting and the weighing of the evidence. He could not be given a mandate to cross-examine witnesses because if he had put witnesses on oath and set to cross-examining them for a moment, he would be subjecting himself to the penalty under the Oaths Act for having unauthorisedly administered an oath. It was abundantly clear that Mr. Courtenay could not have examined witnesses and asked them to be cross-examined on oath and that was the reason why the enquiry took the form it did. Undoubtedly it was an unsatisfactory expedient. As a lawyer, as one who had been accustomed to conduct cases in courts I need only to reiterate what has often been said, from my place here, that any enquiry of this kind so long as the law does not allow adequate and thorough sifting of evidence and cross-examination must be unsatisfactory. The Government were not anxious for such an enquiry, but not a day passed, not an hour passed, not a minute, without petitions by the score, by hundreds to the Government for an enquiry. The Government had, therefore, in order that they might not be charged afterwards with not being amenable to the force of public opinion, perforce to appoint an officer for the enquiry, however inherently unsatisfactory it was bound to be.

"Now let me deal with this proposed committee. This committee cannot take evidence. With the great respect that I have for the powers and the inherent jurisdiction of this Council, unless this Council becomes a court

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of record as I have often said it should become, neither this House nor any committee of it can take evidence. Therefore there is no question of further evidence. All that can be done is to scrutinise the records and come to a conclusion. The committee may differ from Mr. Courtenay or agree with him. That is the only thing that this committee can do. I hope hon. Members of the House will now realise that it was not in a spirit of light-heartedness or with the object of making political capital out of it that the Government appointed Mr. Courtenay. If A or B could have gone to Court on this matter and in the Court all these materials had been exposed and

brought out, no one would have been more satisfied than the
3-45 p.m. Government; but because Government thought it was in the circumstances as well to have an unsatisfactory enquiry—an inherently unsatisfactory enquiry—rather than have no enquiry at all, they embarked upon this.

“Now, let me say one word more before I resume my seat. I must express my obligations to the hon. Member from Chingleput who has with great restraint, I realise, kept aloof from any strictures on the district authorities, nor do I propose to bring them into this debate or controversy. The question was raised, however, and raised in a pointed form, that Mr. Courtenay did less than justice to himself and conducted practically a travesty of an enquiry and made himself responsible for allegations against a public man which were not supported. I do not propose to say more than this, that it was not with a light heart or with an inadequate sense of the responsibility of the Government in this matter, that they went into Mr. Courtenay's report. Government, in doing that, did not purport to do so, or pretend to do so, as a judicial tribunal or authority. Government had certain materials before them and they acted on those materials. I say that so far as any statement of that kind can be made, and can legitimately be made at this stage, the Government have absolutely no reason to distrust either the capacity or the impartiality of Mr. Courtenay. They are convinced that he did his business remarkably well and he worked according to the best of his lights and taking that view and taking also the circumstance into consideration that on the whole, as is evident from the report itself, he was when he so deemed fit hard on the district authorities and that he was not more hard on certain other persons, they accepted in the main his report. At the present moment and subject to any further development that might ensue, I may say that the Government of Madras, until anything further comes to their cognizance, continue to adhere to their own Government Order. I may also say this that the Government Order does not specifically attack A or B. It only says: Here is Mr. Courtenay who has made an inquiry. He has made certain charges against A and against B and we have enough confidence in Mr. Courtenay and in his judicial traditions and in the materials and in his handling of the materials, to say that he was not wrong-headed in the line he took and that is all that the Government Order, I submit, says; and on that the Government have come to certain conclusions and hope that the public and the Government would be helped by the public, so that a repetition of the same things may not happen. Now, I do not propose at this moment to add to the bitterness of the controversy or to the feelings that have been raging on one side and the other by saying a single word either with regard to the district authorities or to Mr. Kesava Pillai. It must not be forgotten in this connexion, that Mr. Kesava Pillai and myself

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were Joint Secretaries of the Indian National Congress. He has reminded me of it. I have not come into this seat as was rightly remarked by Mr. A. Ramaswami Mudaliyar from any other bureaucratic berth. I have come here straight from public life. I realize the responsibilities of public life, but I also realize the responsibilities of my official position. I should be unjust to myself if in dealing with a report which bears on its face the marks of impartiality, and with the materials put before me I say that the Government could jettison that report. And what else could the Government have done in this matter? Supposing the Government had got this report and did not publish it what would have been the criticism. It would be said that these persons appointed a commission. Apparently, the Commissioner has reported in language extremely unfavourable to Government. It was not therefore without cogitation that the Government decided to publish this report. The alternative of publishing or not publishing the report was present to the Government for many days, and it was because it was thought that having appointed an officer, having conducted an enquiry which every one knew, which every one who knows the elementary law on the subject knows, cannot be a judicial enquiry, if a report came to the hands of Government and if that report was not published, Government would be not illegitimately subjected to the charge of burking that report we had to act in the manner we did. So we had to publish that report and the whole of that report. That is exactly where the position stands to-day, and if this committee is appointed, I wonder what further steps can be taken by this committee except that of summoning further witnesses and examining them and hearing Mr. Kesava Pillai not on oath but on his own statement. His statement is already in the papers. Now, I do not wish to say anything more on this. This amendment has, if I may be permitted to use the expression, been sprung upon us. Neither myself nor my hon. Colleagues have had a chance of examining the rights or wrongs of the formation of this committee. I have pointed out the difficulties of the appointment of such a committee and the inevitable limitations of enquiry by such a committee and all that I can say is that the Government will most carefully take into consideration the desire of this House if they vote on this matter; but, speaking for myself, for the reasons I have already indicated, I am not accepting the motion as it has been moved or amended."

* Mr. J. A. SALDANHA :—" Sir, I agree to the appointment of this committee on two strict conditions, as I said at a meeting of our party. The first is that the committee should be limited to three persons and secondly that the enquiry should be limited to the record on hand and without taking any further evidence, as to whether any aspersion and strictures made with reference to Diwan Bahadur P. Kesava Pillai are within the scope of the enquiry and secondly whether the procedure followed was correct or not."

* The hon. the PRESIDENT :—" I take it that the hon. Member is proposing an amendment to the resolution as amended."

* Mr. J. A. SALDANHA :—" No, Sir, I oppose this amendment; because it goes quite beyond the powers of this House or of the committee. As pointed out by the hon. the Law Member—and by myself yesterday—such an enquiry and further examination of witnesses would be beyond the powers of this House. All that we can do is to record an opinion as to

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whether the conduct of Diwan Bahadur Kesava Pillai was within the scope of the enquiry ordered by the Government and secondly whether the procedure was correct. I therefore oppose this motion."

Mr. A. RANGANATHA MUDALIYAR :—" I think, Sir, the matter may be put to vote now."

* The hon. the PRESIDENT :—" Does the hon. Member wish to reply ? "

* Mr. A. RAMASWAMI MUDALIYAR :—" I have to say nothing particular by way of reply, Mr. President, except this : that I do not think that in the course of my speech, I have suggested that the report of Mr. Courtenay should not be published. I know perfectly well that there would have been an insistent public demand for the publication of the report. I only suggested that Mr. Courtenay probably thought that in making the statements that he had made, the report would not see the light of day. I certainly take it that every one of us must have insisted on the publication of the report. And as regards the observations which I made on the Government Order, they stand as they are. I do not think I ever suggested that it was a strictly judicial tribunal, nor the observation that I have suggested that the whole matter should come before a committee meant anything more than what I intended."

The amended motion for adjournment of the business of the House was then put and carried.

The House then adjourned for fifteen minutes and re-assembled at 4-12 p.m.



THE COCHIN PORT TRUST BILL.

* The hon. Sir C. P. RAMASWAMI AYYAR :—" Mr. President, Sir, I move that we now pass over the other items on the agenda until we come to the Cochin Port Trust Bill, and that we begin consideration of the report of the Select Committee on that Bill."

Mr. T. R. Venkatarama Sastriar seconded the motion.

The motion was put and carried and the consideration of the intermediate business on the agenda up to the Cochin Port Trust Bill was postponed.

* The hon. Sir C. P. RAMASWAMI AYYAR :—" I move, Sir, with your permission, that we take into consideration the report of the Select Committee on the Cochin Port Trust Bill. It will be remembered that the Select Committee that was appointed was very representative in character and Members belonging to all sections of this House were represented on that Select Committee. They have recommended practically unanimously certain changes and, speaking on behalf of Government, we are prepared to accept the changes suggested by the Select Committee. I am sorry I do not now see in his seat Mr. Saldanha who has made himself responsible for almost all the amendments that have been tabled in regard to the Cochin Port Trust Bill. But I may say this that, after considerable discussion with the hon. Member, Mr. Saldanha who with a not unnatural zeal pressed the claims of the Cochin municipality for representation on the Port Trust and, although certain possible inconveniences and future embarrassments that might arise from such inclusion were pointed out, would not yield—and he